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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:

) OAH NO: 2016051234

THE COMMISSIONER OF BUSINESS
OVERSIGHT,

) STIPULATION AND AGREEMENT TO:

Complainant,

) (1) DESIST AND REFRAIN FROM
) VIOLATION OF THE CALIFORNIA
) FRANCHISE INVESTMENT LAW;

v.

) (2) AND
) PAY ADMINISTRATIVE PENALTIES
) TO THE COMMISSIONER;

SOLARA360, LLC; WILLIAM DORN
BEATTIE,

) Hearing Date: November 29-30, 2016
) Location: OAH Los Angeles

Respondents.

This Stipulation and Agreement ("Agreement") is entered between the Commissioner of Business Oversight ("Commissioner"), William Dorn Beattie ("Beattie"), and Solara360, LLC ("Solara360"). The Commissioner, Beattie, and Solara360 shall collectively be referred to as the "Parties."

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I.**RECITALS**

A. Solara360 was formed on October 22, 2012 as a Nevada Limited Liability Company. Solara360's principal business address is 1927 Boblett Street, Blaine, Washington 98230. At all relevant times, Beattie was the President and Chief Executive Officer of Solara360.

B. The Commissioner is the head of the Department of Business Oversight ("Department") and is responsible for administering and enforcing the California Franchise Investment Law ("FIL") (Corp. Code § 31000, et seq.)¹ and for registering the offer and sale of franchises in California. To register a franchise, a franchisor must file a Uniform Franchise Disclosure Document ("FDD") with the Department for review and approval, in accordance with sections 31111 and 31114. The FIL requires franchisors to disclose certain material information, which is intended to provide prospective franchisees with facts upon which to make an informed decision to purchase a franchise, as stated in section 31001.

C. On June 27, 2007, the British Columbia Securities Commission issued a Cease Trade Order against Solara Technologies, Inc. ("Solara Technologies"), (the "Cease Trade Order") for distributing securities to British Columbia residents without first qualifying the securities with the British Columbia Securities Commission. Beattie was Solara Technologies' president, sole registered director and officer. Beattie ran Solara Technologies' affairs and made all of its significant business decisions.

D. On March 26, 2010, the British Columbia Securities Commission found that Solara Technologies and Beattie traded Solara Technologies securities in violation of the Cease Trade Order, among other things. After a hearing on the matter, on June 23, 2010, the British Columbia Securities Commission issued a Decision requiring Solara to cease trading securities and required Beattie to resign as an officer or director and pay a \$50,000.00 administrative penalty (the "British Columbia Decision"). Beattie was prohibited for 5 years from trading securities (except for his own account), acting as a director of any issuer other than Solara Technologies, acting in a management or

¹ All further statutory references are to the Corporations Code unless otherwise indicated.

1 consultative capacity in connection with activities in the securities market, and engaging in investor
2 relations activities.

3 E. On June 1, 2011, the Manitoba Securities Commission issued an Order requiring
4 Solara Technologies to cease trading in securities ("Manitoba Order"). The Manitoba Order required
5 Beattie to cease trading in securities until June 23, 2015, except for his own account and resign from
6 any position as a director or officer of any issuer (except for Solara Technologies), among other
7 things.

8 F. On November 4, 2013, Solara360 filed a Franchise Registration Application and FDD
9 with the Department listing Beattie as the President and Chief Executive Officer. Beattie and
10 Solara360 failed to disclose the British Columbia Decision and Manitoba Order as required under the
11 FIL. In addition, the application asked whether Beattie is subject to a currently effective injunction or
12 restrictive order or decree. Beattie answered this question "No."

13 G. Item 19 of Solara360's FDD stated that Solara360 would "not make any
14 representations about a franchisee's future financial performance or the past financial performance."

15 H. Contrary to the statements made in the FDD, in or around the fall of 2013, Beattie
16 provided prospective and/or current franchisees with future financial performance representations.

17 I. On or around October 13, 2015, the Commissioner issued to Solara360 and Beattie
18 Citations Including: (1) Desist and Refrain Order; (2) Assessment of Administrative Penalties; and
19 (3) Attorneys' Fees ("Citations and Desist and Refrain Order" or the "Action") under sections 31406
20 and 31408.

21 J. On or around October 20, 2015, Solara 360 and Beattie were served with the Citations
22 and Desist and Refrain Order.

23 K. On or about December 7, 2015, Beattie contacted the Department, individually and on
24 behalf of Solara360, seeking to resolve the matter.

25 L. On or around May 27, 2016, the Commissioner filed an Amended Citations Including:
26 (1) Desist and Refrain Order; (2) Assessment of Administrative Penalties; and (3) Attorneys' Fees
27 ("Amended Citations" or the "Action"). On or around June 7, 2016, Solara360 and Beattie were
28 served with the Amended Citations.

1 M. Beattie and Solara360 do not dispute the factual recitals contained herein.

2 N. It is the intent and understanding between the parties that this Agreement does not
3 create any private rights or remedies against Solara360 or Beattie, create any liability for Solara360
4 or Beattie, or limit defenses of Solara360 or Beattie for any person or entity not a party to this
5 Agreement.

6 O. Beattie and Solara360 seek to resolve each and every aspect of the Action in
7 consideration of the terms and conditions described below. This Agreement is entered for the purpose
8 of judicial economy and expediency, and to avoid the time and expense of a hearing and possible
9 further court proceedings. Now, therefore, in consideration of the terms and conditions contained
10 herein, the Parties agree as follows:

11 **II.**

12 **TERMS AND CONDITIONS**

13 1. **Issuance of Citations and Desist and Refrain Order Pursuant to Corporations**
14 **Code section 31406.** The Parties hereby agree that the Amended Citations and Desist and Refrain
15 Order issued on May 27, 2016 is final and effective upon the execution of this Agreement (“Amended
16 Citations and Desist and Refrain Order”).

17 2. **Administrative Penalties.** Solara360 and Beattie agree to pay to the Commissioner
18 penalties totaling \$7,500.00 United States Dollars (“Penalties”). Such Penalties shall be paid by
19 Solara360 and Beattie, jointly and severally, and received by the Commissioner within 10 days of the
20 execution of this Agreement. The check shall be made payable to “The Department of Business
21 Oversight,” and shall be sent to the following address:

22 **Danielle A. Stoumbos, Esq.**
23 **Senior Counsel**
24 **Department of Business Oversight**
25 **320 W. 4th Street, Suite 750**
Los Angeles, CA 90013

26 In the event the payment due date falls on a weekend or holiday, the payment shall be due the
27 next business day. Solara360 and Beattie acknowledge that failure to timely pay the Penalties in this
28 Agreement shall be a breach of this Agreement and shall be cause for the Commissioner to

1 immediately revoke any licenses held by, and/or deny any pending application(s) of Solara360, its
2 successors and assigns, by whatever names they might be known. Solara360 hereby waives any notice
3 and hearing rights to contest such revocations and/or denial(s) which may be afforded under the FIL,
4 the California Administrative Procedure Act, the California Code of Civil Procedure, or any other
5 provision of law in connection therewith.

6 3. **Solara360's Waiver of Hearing Rights.** Solara360 acknowledges its right to a
7 hearing under the FIL in connection with the Amended Citations and Desist and Refrain Order and
8 hereby waives that right to a hearing, and to any reconsideration, appeal, or other right to review
9 which may be afforded pursuant to the FIL, the California Administrative Procedure Act, the Code of
10 Civil Procedure, or any other provision of law, and by waiving such rights, consents to the Agreement
11 and Amended Citations and Desist and Refrain Order.

12 4. **William Dorn Beattie's Waiver of Hearing Rights.** Beattie acknowledges his
13 right to a hearing under the FIL in connection with the Amended Citations and Desist and Refrain
14 Order and hereby waives that right to a hearing, and to any reconsideration, appeal, or other right to
15 review which may be afforded pursuant to the FIL, the California Administrative Procedure Act, the
16 Code of Civil Procedure, or any other provision of law, and by waiving such rights, consents to the
17 Agreement and Amended Citations and Desist and Refrain Order.

18 5. **Desist and Refrain Order.** Solara360 and Beattie stipulate to undertake all
19 appropriate steps to assure full compliance with California law in the conduct of its business.
20 Solara360 and Beattie shall desist and refrain from willfully making any untrue statements of material
21 fact or willfully omitting to state any material fact in any application, notice, or report filed with the
22 Commissioner and from offering or selling unregistered franchises in California.

23 6. **Failure to Comply With Agreement.** If Solara360 or Beattie fail to comply with any
24 of the terms of the Agreement, the Commissioner may institute proceedings for any and all violations
25 otherwise resolved under this Agreement and Amended Citations and Desist and Refrain Order.

26 Solara360 and Beattie acknowledge that failure to comply with this Agreement shall be a
27 breach of this Agreement and shall be cause for the Commissioner to immediately revoke any
28 registrations held by, and/or deny any pending application(s) of Beattie or Solara360, its successors

1 and assigns, by whatever names they might be known. Beattie and Solara360 hereby waive any
2 notice and hearing rights to contest such revocations and/or denial(s) which may be afforded under
3 the FIL, the California Administrative Procedure Act, the Code of Civil Procedure, or any other
4 provision of law in connection therewith.

5 7. **Future Actions by the Commissioner.** The Commissioner reserves the right to
6 bring any future action(s) against Beattie and Solara360 or any of their partners, owners, officers,
7 directors, shareholders, employees, or successors for any and all unknown or future violations of the
8 FIL. This Agreement shall not serve to exculpate Beattie or Solara360 or any of its' partners, owners,
9 officers, directors, shareholders, employees, or successors from liability for any and all unknown or
10 future violations of the FIL. However, this Agreement resolves and discharges Beattie and Solara360
11 of any further liability, fine or discipline or other punitive conduct that could have been brought by
12 the Commissioner arising out of or relating to the allegations made in the Amended Citations and
13 Desist and Refrain Order.

14 8. **Effective Date.** This Agreement shall become effective upon the receipt by each party
15 of an electronic copy of this Agreement signed by all Parties.

16 9. **Agreement Coverage.** The Parties hereby acknowledge and agree that this Agreement
17 is intended to constitute a full, final, and complete resolution of this matter. The Parties further
18 acknowledge and agree that nothing contained in this Agreement shall operate to limit the
19 Commissioner's ability to assist any other agency, county, or state or federal entity, with any
20 prosecution, administrative, civil or criminal, brought by any such agency against Beattie or
21 Solara360 based upon any of the activities alleged in this matter or otherwise.

22 10. **Independent Legal Advice.** Each of the Parties represents, warrants, and agrees that
23 it has received or been advised to seek independent legal advice from its attorneys with respect to the
24 advisability of executing this Agreement.

25 11. **No Other Representation.** Each of the Parties represents, warrants, and agrees that in
26 executing this Agreement it has relied solely on the statements set forth herein and the advice of its
27 own counsel. Each of the Parties further represents, warrants, and agrees that in executing this
28 Agreement it has placed no reliance on any statement, representation, or promise of any other party, or

any other person or entity not expressly set forth herein, or upon the failure of any party or any other person or entity to make any statement, representation or disclosure of anything whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute this Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Agreement.

12. **Modifications and Qualified Integration**. No amendment, change or modification of this Agreement shall be valid or binding to any extent unless it is in writing and signed by all of the parties affected by it.

13. **Full Integration**. This Agreement is the final written expression and the complete and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions between and among the Parties, their respective representatives, and any other person or entity, with respect to the subject matter covered hereby.

14. **No Presumption From Drafting**. In that the Parties have had the opportunity to draft, review and edit the language of this Agreement, no presumption for or against any party arising out of drafting all or any part of this Agreement will be applied in any action relating to, connected to, or involving this Agreement. Accordingly, the Parties waive the benefit of Civil Code section 1654 and any successor or amended statute, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

15. **Signatures**. A fax signature or e-mail scanned signature of this Agreement shall be as effective as an original ink signature.

16. **Counterparts**. This Agreement may be executed in any number of counter-parts by the Parties, and when each party has signed and delivered at least one such counterpart to the other party, each counterpart shall be deemed an original and taken together shall constitute one and the same Agreement.

17. **Headings and Governing Law**. The headings to the paragraphs of this Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or

1 interpretation of the provisions hereof. This Agreement shall be construed and enforced in accordance
2 with, and governed by, the laws of the State of California.

3 18. **Authority For Settlement.** Each party warrants and represents that such party is
4 fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and
5 without limiting the generality of the foregoing, each party warrants and represents that it is fully
6 entitled to enter into the covenants, and undertake the obligations set forth herein.

7 19. **Public Record.** Beattie and Solara360 hereby acknowledge that this Agreement
8 and the Amended Citations and Desist and Refrain Order are and will be a matter of public record.

9 20. **Voluntary Agreement.** The Parties each represent and acknowledge that he, she or
10 it is executing this Agreement completely voluntarily and without any duress or undue influence
11 of any kind from any source.

12 IN WITNESS WHEREOF, the Parties have approved and executed this Agreement on the
13 dates set forth opposite their respective signatures.

14 JAN LYNN OWEN
15 Commissioner of Business Oversight

16 Dated: 11/29/16

By

17 _____
18 Mary Ann Smith
19 Deputy Commissioner

20 SOLARA360, LLC

21
22 Dated: 11/29/16

By

23 _____
24 William Dorn Beattie
25 President and Chief Executive Officer

26 WILLIAM DORN BEATTIE

27 Dated: 11/29/16

By

28 _____
William Dorn Beattie

APPROVED AS TO FORM:

Dated: 11/29/16

By

Danielle A. Stoumbos
Senior Counsel, Commissioner of Business Oversight

Dated: 11/29/16

By

Ryan Baker
Baker Marquart LLP
Counsel for William Dorn Beattie and Solara360, LLC